

HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI C.V.NAGARJUNA REDDY

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Writ Appeal No.1175 of 2006

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Between:

Kampasati Annapoorna
and others.

... Appellants

AND

District Collector,
West Godavari District,
Eluru and others.

... Respondents

:: JUDGMENT ::

Counsel for the appellants : Shri A.Ramalingeswara Rao

Counsel for respondent Nos.1 to 3: Government Pleader for
Revenue

Counsel for respondent No.6 : Shri K.Ranga Rao

Counsel for respondent Nos.4, 5 & : None.
7.

08-11-2006

Per G.S.Singhvi, CJ

This is an appeal for setting aside order dated 27.10.2006 passed by the learned Single Judge, whereby he dismissed Writ Petition No.20844 of 2006 filed by the appellants for quashing the cancellation of their pattadar passbooks and relegated them to the alternative remedy of appeal under Section 5(5) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act').

A perusal of the record shows that Smt.Doppasani Rattamma, who owned Ac.70-00 of agricultural land in Pattayagudem village, Chintalapudi Mandal, West Godavari District entrusted the same to her family members for agricultural operations. On 16-8-1999, Smt.Doppasani Rattamma is said to have executed a Will. After about six years, she executed Deed of Settlement dated 3-10-2005 and got it registered. Subsequently, the appellants are said to have taken loan and developed the land. They also obtained pattadar passbooks in the year 2003. After one year, Revenue Divisional Officer, Eluru (respondent No.2) passed order dated 13-12-2004 whereby he cancelled the pattadar passbooks and title deeds issued in favour of the appellants. That order was set aside by the learned Single Judge in Writ Petition No.24975 of 2004 by observing that the same had been passed in violation of the rules of natural justice. However, liberty was given to respondent No.2 to pass fresh order. Thereafter, vide order dated 27-6-2005, respondent No.2 again cancelled the pattadar passbooks of the appellants. That order was also quashed by the High Court in Writ Petition No.15571 of 2005 with liberty to the concerned authority to pass fresh order. On 25-9-2005, respondent Nos.4 to 7 are said to have illegally trespassed into the land of the appellants and destroyed banana plantations worth Rs.40 lakhs. The appellants filed complaint in Police Station, Chintalapudi. Thereupon, Crime No.151 of 2006 was registered. After another one month, the appellants filed writ petition under Article 226 of the Constitution of India for quashing the cancellation of their pattadar passbooks and prayed for being allowed to continue to retain possession of the land.

The learned Single Judge dismissed the writ petition by observing that the writ petitioners (appellants herein) have failed to make out a prima facie case for issue of pattadar passbooks and title deeds in their favour and that an effective alternative remedy was available to them by filing appeal.

We have heard learned counsel for the parties and perused the record including the order passed in Writ Petition No.20844 of 2006.

Learned counsel for the private respondents lamented that his clients were not impleaded as parties in the earlier round of litigation and argued that the orders passed in those cases should not operate to their prejudice. He laid considerable emphasis on the fact that while disposing of the second writ petition filed by the appellants, the learned Single Judge did not take into consideration the fact that the Mandal Revenue Officer had already passed an order dated 2.7.2005 and rejected their claim.

We find some substance in the grievance made by the learned counsel for the private respondents, but are unable to sustain the order under challenge, which has been passed by the learned Single Judge under an erroneous assumption that order dated 2.7.2005 is the one which should be treated to have been passed in compliance of order dated 19.7.2005 in Writ Petition No.15571 of 2005.

As a matter of fact, learned Government Pleader for Revenue fairly conceded that the competent authority did not pass any order in pursuance of the directions given by the Court on 19.7.2005 in Writ Petition No.15571 of 2005 and submitted that the Court may now direct the concerned officer to pass appropriate order after hearing the parties.

In view of the statement made by the learned Government Pleader, we deem it proper to allow the appeal and set aside the order under challenge with a direction to the competent authority to pass appropriate order in furtherance of the directions given by the Court on 19.7.2005 in Writ Petition No.15571 of 2005. Ordered accordingly.

It is expected that the competent authority will pass appropriate order within a maximum period of one month from the date of receipt of copy of this order. The authority concerned shall give opportunity to the appellants and the private respondents apart from the officers of the concerned department and then pass a reasoned order.

As a sequel to allowing the appeal, WAMP.No.2442 of 2006 filed by the appellants for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

8.11.2006.

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